

PATENT

Customer No. 22,852

Attorney Docket No. 3495.0193-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Haroche et al.

Serial No.: 09/628,693

Filed: July 28, 2000

For: DETECTION OF A GENE, vatE,
ENCODING AN
ACETYLTRANSFERASE
INACTIVATING STREPTOGRAMIN
(AS AMENDED)

) Group Art Unit: 1652

) Examiner: Pak

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

DECLARATION UNDER 37 C.F.R. § 1.131

I, Dr. Névine El Solh, do hereby declare that:

1. I am presently Chief of the Staphylococcus unit within the Infectious Diseases department at Institut Pasteur, Paris, France.
2. In my role as Chief, I supervise and direct the research activities of visiting scientists, post-doctoral fellows, graduate students, and research technicians, among others.
3. I, along with Jeanine Allignet and Julien Haroche, invented the subject matter described in the present patent application, which I have reviewed (a copy of which is attached as Exhibit 1).

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4. On information and belief, Werner and Witte, "Characterization of a New Enterococcal Gene, *satG*, Encoding a Putative Acetyltransferase Conferring Resistance to Streptogramin A Compounds," Antimicrobial Agents and Chemotherapy, Vol. 43, No. 7, July 1999, p. 1813-1814, ("Werner et al.," a copy of which is attached as Exhibit 2), has been cited as prior art under 35 U.S.C. § 102(a) against claims of the above-identified application.

5. I have reviewed the pending claims of the above-identified application (a copy of which is attached as Exhibit 3).

6. Prior to July 1999, which is the apparent publication date of Werner et al., I had completed, in France, the invention of the above-identified application.

7. Evidence supporting the fact declared in paragraph 6 is as follows:

On June 17, 1999, I submitted for publication in Antimicrobial Agents and Chemotherapy a manuscript describing the invention, and referring to the registration of the sequence data in the GenBank EMBL Data Library under accession no. AF153312 (a copy of which is attached as Exhibit 4). The publication resulting from the submission is Antimicrobial Agents and Chemotherapy, Vol. 44, No. 1, Jan. 2000, p. 190-191 (a copy of which is attached as Exhibit 5).

8. The publication referred to in paragraph 7 shows that I had completed the invention claimed in the above-identified application, in France, by at least June 17, 1999, which was before the July 1999 publication date of Werner et al.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false

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statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated:

March 20th, 2002

By:


Névine El Solh

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Examiner: Pak

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

DEPOSIT DECLARATION

I, Danielle Berneman, do hereby declare that:

1. I am a citizen of France.

2. I am the Head of the Patent Section of the Institut Pasteur in Paris,

France, to whom this patent application has been assigned.

3. On information and belief, plasmid pIP1801, disclosed in this application,
was deposited on July 7, 1999, under the provision of the Budapest Treaty at the
National Collection of Cultures of Microorganisms (C.N.C.M.) in Paris, France, and
assigned Accession No. I-2247.

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International Recognition of the Deposit of Microorganisms for the Purposes of the Patent Procedure.

5. Said deposits have been made under conditions that ensure that access to said deposits will be available during the pendency of this patent application to one determined by the Commissioner of Patents and Trademarks to be entitled thereto under 37 C.F.R. Section 1.14 and 35 U.S.C. Section 1.22.

6. No later than issuance of a patent on this application, Institut Pasteur will irrevocably remove any restrictions as to public availability of said deposits except as permitted by 37 C.F.R. Section 1.808(b), and will replace said deposits should it become nonviable, during the period that extends thirty years from the date of the deposits, or the period of the enforceable life of the patent, or the period of five years after the last public request for the deposit, whichever period is longest.


I further declare that all statements made herein of my own knowledge are true; that all statements made on information and belief are believed to be true; that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed this 19th day of March, 2002



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Danielle Berneman
Head of Patents and Inventions
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